REMARKS

The Examiner's comments together with the cited references have been carefully studied. Favorable reconsideration in view of the foregoing amendments and following remarks is respectfully requested.

Claims 1-27 were previously pending in the application. Claims 26 and 27 have been withdrawn from consideration. Claims 1-25 have been rejected. Claims 2, 4, and 25 have been canceled. Claims 1, 5 to 8, and 22 herewith are amended. Claims presently active are claims 1, 3, and 5 to 24. Favorable reconsideration of the application in view of the following remarks is respectfully requested

Applicants herewith affirm the election with traverse to prosecution the invention of Group I, claims 1-25.

Claims 1-10, 13, 14, and 18-21 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Yau et al. in view of Landry-Coltrain et al. The rejection is traversed. It is the conclusion of the Examiner that "At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the base layer of Landry-Coltrain with the invention of Yau in order to absorb the solvent from the ink of Landry-Coltrain."

Statement of Common Ownership

The subject matter of the cited co-pending Patent Application Publication No. 2004/0090512 A1 and the claimed invention of the present application No. 10/795,836 were, at the time the invention was made, owned by the assignee Eastman Kodak.

In view thereof, it follows that Yau et al. cannot be used as a prior art reference under 35 U.S.C. §103(a). With respect to Landry-Coltrain et al., this patent publication fails to disclose a support having thereon a fusible, porous, image-receiving layer comprising at least two types of hydrophobic polymer particles as required by the present claims. Although Landry-Coltrain et al. do disclose a gelatin layer in a different context, such a gelatin layer is used as a sump layer, as taught in in paragraph [0070] and as exemplified in Example 3, paragraphs [0166] to [0169] of Landry-Coltrain et al., which describes "a commercially available inkjet non-porous receiver containing an ink-receiving layer comprised of a high amount of gelatin, "Kodak Inkjet Photo Paper," used to provide the gelatin under the image-receiving

layer. This actually teaches away from the present layer, since the gelatin in that paper is much more swellable than in the gelatin layer of the present invention. Whereas the present invention requires that the gelatin layer is swellable by water in an amount less that 0.67, the gelatin in the Kodak Inkjet Photo Paper is non-crosslinked and, in fact, is swellable by water in an amount greater than 1.0. The comparative results in Table 2 of the present application clearly show that the coating quality of the fusible layer is degraded if the transparent bottom layer swelled an amount equal to or greater than 0.67. Further, the present gelatin layer is used to improve adhesion, rather than a sump layer as taught by Landry-Coltrain et al. As required by independent claim 22, and as evidenced by the present Examples, the imaging layer of the present invention is thicker than the gelatin layer and absorbs more ink than the gelatin layer.

Furthermore, the organic (polyester) particles as taught by Landry-Coltrain et al. are not fusible, since they are highly cross-linked (See Table 3 of Landry-Coltrain et al. for high amounts of DVB crosslinker). This lack of fusibility is further evidenced by the fact that no fusing is used or remotely mentioned in Landry-Coltrain et al. Clearly the image-receiving layer of Landry-Coltrain et al. is not fusible. In contrast, the present inkjet recording element is designed to be capable of fusing at a temperature of 60 to 160°C as stated on page 11, line 23 of the specification and as required by claim 22.

Claims 1-25 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Yau et al. in view of Tang et al. It is the conclusion of the Examiner that "One of ordinary skill in the art would have been motivated to adjust the Tg value in order to improve the flexibility of the layer (col. 4, line 47). A prima facie case of obviousness may be rebutted, however, where the results of the optimizing variable, which is known to be result-effective, are unexpectedly good....Furthermore, with respect to the particle size of the polyurethane dispersion, one of ordinary skill in the art would have been motivated to adjust the particle size in order to optimize coating durability and absorption property of the elayer." The Examiner also states, "At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the base layer of the Tang with the invention of Yau in order to reduce the curl and to absorb the majority of the ink (col. 6, line 4 of Tang)."

The rejection is traversed. As discussed above, Yau et al. is not properly applicable against the present invention. With respect to Tang et al., this reference again teaches against the present invention since the gelatin layer in Tang et al. is non-cross-linked, combined with plasticizers, and will swell infinitely as a result. Furthermore, it is evident from the image-receiving layer disclosed in Tang et al. is a non-porous layer, comprising high amounts of binders relative to the silicone modified polyurethane resins. Table 5 of Tang et al., for example, teaches an image-receiving layer comprising 40 parts gelatin or 50 parts carboxylated polyvinyl alcohol, or both, with 40 or 50 parts of a silicon modified polyurethane dispersion. Clearly, the layer of Tang et al. is not fusible.

In view thereof, it follows that the subject matter of the claims would not have been obvious in view of Yau et al. in view of Tang et al. or Landry-Coltrain et al. at the time the invention was made.

Applicants have reviewed the prior art made of record and believe that singly or in any suitable combination, they do not render Applicants' claimed invention unpatentable.

In view of the foregoing remarks and amendment, the claims are now believed allowable and such favorable action is courteously solicited.

Should the Examiner consider that additional amendments are necessary to place the application in condition for allowance, the favor is requested of a telephone call to the undersigned counsel for the purpose of discussing such amendments.

Respectfully submitted,

Chris P. Konkol
Attorney for Applicant(s)
Registration No. 30,721

CPK:clb
Rochester, NY 14650
Telephone: (585) 722-0452
Facsimile: (585) 477-1148